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Permanent Forum on Indigenous Issues
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Draft report

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Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

Human rights: dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

1. The Permanent Forum recommends that the United Nations Development Programme (UNDP) further engage indigenous peoples in the discussion regarding the concept of human development and in the elaboration of its Human Development Reports. The UNDP concept of human development and its work to promote such paradigm should be more strongly founded on human rights principles and therefore on the United Nations Declaration on the Rights of Indigenous Peoples. With regard to indigenous peoples, this means recognizing the principles of self-determination, independent development and other peoples' rights. Thus, national, regional and global UNDP Human Development Reports should reflect indigenous peoples' views of development from the perspective and with the participation of indigenous peoples themselves.

2. The Permanent Forum deems it urgently necessary for UNDP to develop a deeper understanding of indigenous peoples' world views. This requires, inter alia, that UNDP enhance its own capacity in the area of the human rights of indigenous peoples by having, at least, one full-time adviser on indigenous peoples' rights. This adviser should be an indigenous professional who has experience working in or with

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indigenous organizations. The Permanent Forum further recommends that UNDP establish internal mechanisms to monitor and ensure compliance with its own programmes and operations policies and procedures related to indigenous peoples' rights. The UNDP Liaison Committee on Indigenous Peoples' Issues, in collaboration with the Permanent Forum, should develop a system to receive concerns from indigenous peoples and ensure the application of the internal policies and procedures of UNDP.

3. The Permanent Forum reiterates its recommendation that United Nations agencies employ indigenous experts and requests that the International Labour Organization (ILO) provide information on indigenous experts employed within the United Nations system at the tenth session of the Permanent Forum.

4. The Permanent Forum encourages the Office of the United Nations High Commissioner for Human Rights (OHCHR), ILO and UNDP to strengthen their collaborative framework and partnership for the promotion and implementation of indigenous peoples' rights through joint country programmes aimed at building capacity and establishing mechanisms for consultation, participation and consent in accordance with ILO Convention C169 and the United Nations Declaration on the Rights of Indigenous Peoples.

5. The Permanent Forum recommends that UNDP, OHCHR and ILO facilitate dialogue and provide support to indigenous peoples in the areas of crisis prevention and democratic governance as they relate to extractive industries operating in indigenous territories in order to achieve more effective implementation and protection of indigenous peoples' rights.

6. The Permanent Forum recommends that States implement the principles contained in General Comment No. 21 (2009) of the Committee on Economic, Social and Cultural Rights on article 15, paragraph 1 (a), of the International Covenant on Economic, Social and Cultural Rights regarding the right of everyone to take part in cultural life. In its interpretation of the article, the Committee takes into account the United Nations Declaration on the Rights of Indigenous Peoples. It consequently distinguishes the right of indigenous peoples to take part in their own culture from the same right as it applies to minorities. This distinction is made in particular as a result of the extension of the concept of indigenous culture to material aspects such as territories and resources.

7. The Permanent Forum suggests that the Human Rights Committee also interpret the International Covenant on Civil and Political Rights taking into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. In particular, the Committee should review its General Comment No. 12 (1984) on the right to self-determination (article 1 of the Covenant) and No. 23 (1994) on the rights of persons belonging to minorities (article 27 of the Covenant) taking into account article 3 and other relevant provisions of the Declaration. In addition, in accordance with the terms of General Comment No. 12, the Committee should request State parties to the Covenant to report on their compliance with their obligations regarding the right of all peoples, including indigenous peoples, to self-determination and related rights. The Committee should request that State parties prepare the relevant sections of their reports on the implementation of the Covenant in consultation and cooperation with indigenous peoples.

8. The Permanent Forum welcomes the efforts of the Committee on the Elimination of Racial Discrimination to construe the International Convention on the Elimination of All Forms of Racial Discrimination, regarding indigenous persons, taking into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. The Permanent Forum recommends that the Committee request relevant State parties to the Convention to prepare the sections relating to indigenous peoples in their reports on the implementation of the Convention in consultation and cooperation with indigenous peoples.

9. The Permanent Forum notes that the 2010 annual report of the Committee of Experts on the Application of Conventions and Recommendations devotes increased attention to the implementation by States parties of conventions relevant to the rights of indigenous peoples. The Permanent Forum also notes that 6 of the 12 countries under individual observation on ILO Convention C169 in 2010 must submit a report in 2010, which indicates the serious concern of the Committee about compliance with the Convention by those countries. The Permanent Forum urges the relevant States to present their reports by the deadline established by ILO.

10. The Permanent Forum recommends that, during its June 2010 session, the Committee on the Application of Standards of the International Labour Conference follow up on the serious situations of violations of ILO Convention C169 mentioned in the relevant previous observations of the Committee of Experts on the Application of Conventions and Recommendations, as well as its own 2009 conclusions regarding the implementation of the Convention.

11. The Permanent Forum urges all States to commit to a process, with the participation of indigenous peoples, responding to the country reports of all United Nations Special Rapporteurs, including:

(a) Providing a written response to the rapporteur's report, submitted to the Human Rights Council, within six months of the report's issuance. The response should outline the State process for implementing the recommendations of the report;

(b) Developing and publicly promoting a strategy to implement the recommendations of the report within 12 months of its issuance;

(c) Providing annual updates of the rapporteur's report detailing the implementation of the strategy until such time as the rapporteur conducts a new visit to the State in question, or until that State undergoes a universal periodic review.

12. The Permanent Forum recommends that all States with indigenous peoples review their legislation, policies and programmes in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and the Programme of Action for the Second International Decade of the World's Indigenous People.

13. The Permanent Forum supports the initiative of OHCHR to develop guidelines for the protection of peoples in voluntary isolation and initial contact in the Amazon Region and the Gran Chaco, which are currently under consultation with indigenous organizations and the States concerned. The Permanent Forum recommends that, in developing the guidelines, attention be directed to the United Nations Declaration on the Rights of Indigenous Peoples, particularly in terms of the right to self-determination. The organizations in closest contact with those indigenous peoples that remain in voluntary isolation or initial contact should be involved in the elaboration of these guidelines.

14. The Permanent Forum welcomes the increased cooperation among the Forum, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Expert Mechanism on the Rights of Indigenous Peoples on the basis of article 42 of the United Nations Declaration on the Rights of Indigenous Peoples. In accordance with that article, the Permanent Forum expresses its readiness to work closely with other United Nations mechanisms with mandates that are also relevant to indigenous peoples, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination, and invites these bodies to participate in sessions of the Permanent Forum that are devoted to human rights.

15. The Permanent Forum urges the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to require States parties to take into account, in their reports to each body, the first article of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which must be understood pursuant to article 3 of the United Nations Declaration on the Rights of Indigenous Peoples, which sets out the right of indigenous peoples to self-determination.

16. The Permanent Forum welcomes the invitation from the Government of Colombia to organize a mission to that country.

17. The Permanent Forum welcomes the study of the Expert Mechanism on the Rights of Indigenous Peoples on the right to education and the Expert Mechanism's Advice No. 1. The Permanent Forum encourages States, indigenous peoples and others to disseminate these texts and incorporate them in national policies and practices.

18. The Permanent Forum recommends that OHCHR pursues its efforts to encourage increased use of the United Nations Declaration on the Rights of Indigenous Peoples by national human rights institutions.